

AGENDA

UPPER YAMPA WATER CONSERVANCY DISTRICT EXECUTIVE COMMITTEE MEETING WEDNESDAY, JUNE 16, 2021 (11:00 AM)

ONLINE MEETING:

<https://zoom.us/j/98878938326?pwd=VmVtSTNhQkVrZ3dMNW9GNW5wZjlWdz09>

INSTRUCTIONS ON HOW TO JOIN A ZOOM MEETING FOLLOW THE AGENDA

An Executive Committee meeting packet is available for public review on our website at <http://www.upperyampawater.com/board-of-directors/agendas/> by the Friday before the meeting. Amendments to the Agenda and new documents that are generated or submitted after the original posting of the meeting materials will be posted under "Additional Documents" on the website for the relevant meeting.

QUESTIONS ON AGENDA AND/OR BOARD MATERIALS: Members of the public or Board of Directors with questions on the agenda or meeting materials, including the consent agenda, are welcome to contact the General Manager at the District offices prior to the meeting. You may reach the General Manager at: arossi@upperyampawater.com or (970) 871-1035 Ext. 2.

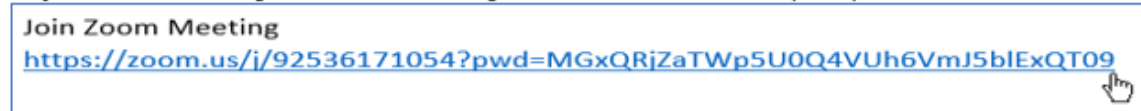
MEETING PROCEDURE: Comments from the Public are welcome at two different times during the course of the meeting: 1) Comments no longer than three (3) minutes on items **not** scheduled on the Agenda will be heard under Public Input and Comment; and 2) Comments no longer than three (3) minutes on all scheduled public hearing items will be heard following the presentation. Please wait until you are recognized by the President. With the exception of subjects brought up during Public Input and Comment, on which no action will be taken or a decision made, the Board may take action on, and may make a decision regarding, ANY item referred to in this agenda, including, without limitation, any item referenced for "review", "update", "report", or "discussion" whether or not listed as an "Action Item."

- (1) **11:00 AM** Establishment of Quorum and Call to Order
- (2) **11:00 AM** Approval of Agenda for Meeting **Action item**
- (3) **11:05 AM** Public Input and Comment
The Board will make no decision nor take action, except to direct the General Manager. Those addressing the Board are requested to identify themselves by name, organization, if any, and address. Comments shall not exceed three (3) minutes.
- (4) **11:10 AM** Case No. 20CW3015 – Lake Catamount Refill **Action Item**
- (5) **11:45 AM** Sickles Parcel
- (6) **12:15 PM** Executive Sessions:
 - a. **Executive session under CRS § 24-6-402(4)(b) to discuss legal issues on Water Resumes, Water Cases, Contract Negotiations** and _____ (insert description). Mere presence or participation of an attorney at an executive session is not sufficient to satisfy the requirements of CRS § 24-6-402(4)(b). Executive sessions to discuss legal matters are not recorded.
 - b. **Executive session under CRS § 24-6-402(4)(e)(I) for the purpose of determining positions relative to matters that may be subject to negotiations;** developing strategy for negotiations; and instructing negotiators with respect to _____ (insert brief description). This session will be recorded, and a copy of the recording maintained for not less than 90 days.
- (7) **XX:XX PM** Committee actions in regard to Executive Session **Action Item**
- (8) **XX:XX PM** Adjournment.

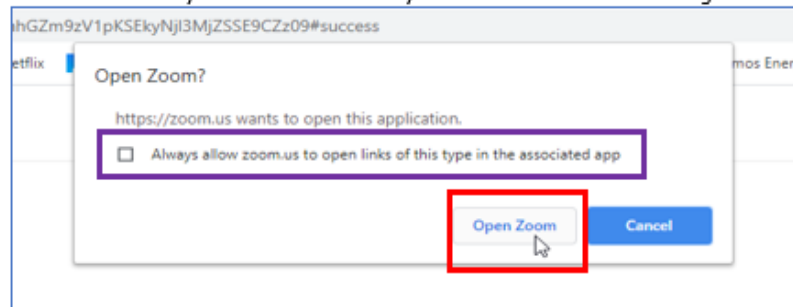
How to join a Zoom meeting

Join via "Join Zoom Meeting" link:

To join a Zoom meeting, click on the meeting link that has been sent to you by the host:

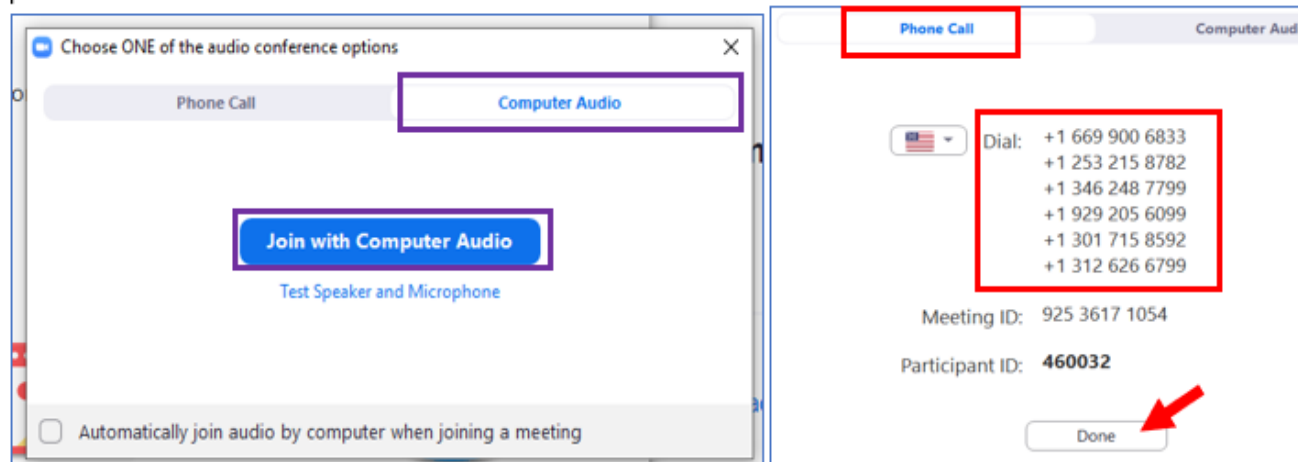


If you have not used Zoom before, you may receive this dialogue box to open Zoom. First, click on **"always allow zoom.us..."** so you will automatically connect for future meetings. Then, click on **"Open Zoom"** and follow the prompts.



Once you are connected to Zoom, you will need to choose your audio conference option. To join via your computer, click on **"Computer Audio"** and then **"Join with Computer Audio"**.

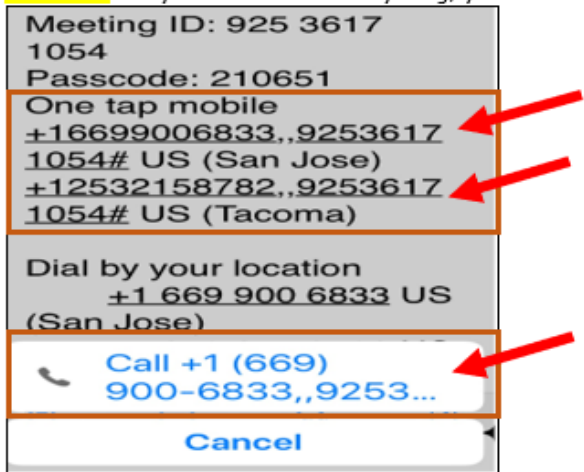
To use your cell phone or landline, click on **"Phone Call"** and then choose a number from the list. Once you dial the number, you will be asked for the Meeting ID and Participant ID to enter the meeting. Click on **"Done"** once you are connected to the Zoom meeting. Or, you can use the **"One tap mobile"** option, see below, to connect via your cell phone.



Join via cell phone with "One tap mobile":

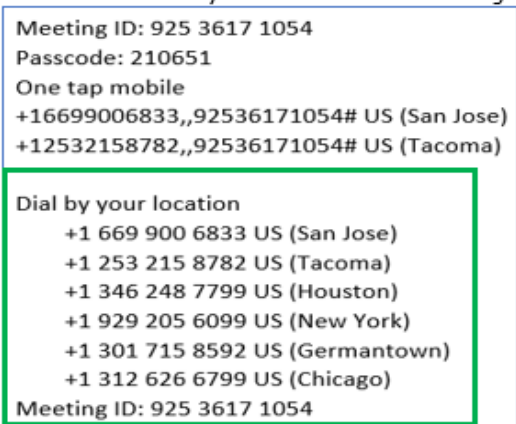
If you will be joining a Zoom meeting via your cell phone, click one of the "One tap mobile" links. Then click on "Call +1...". You will hear a request to "enter your Meeting ID followed by pound (#)". You **do not** need to enter the ID as the link will do this automatically for you.

You will be asked if you are a participant and to "Please press pound (#) to continue". You **must** press the pound key (#). Then you will be asked to "Enter your Participant ID followed by pound (#) or just press pound (#) to continue". If you **do not** enter anything, you will be automatically connected to the meeting.



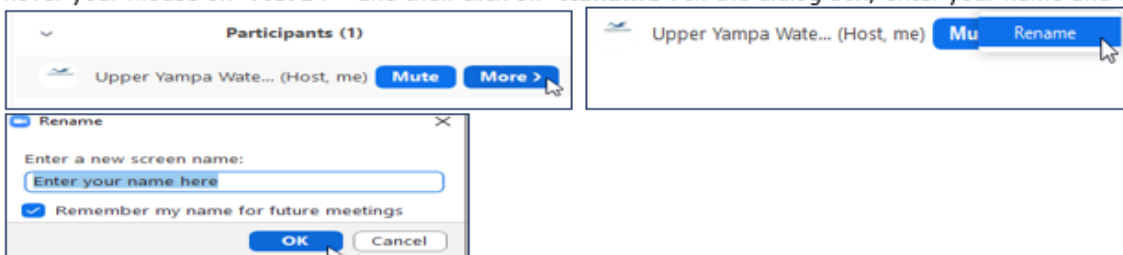
Join via "Dial by your location":

If you will be joining a Zoom meeting via your cell phone or landline, you can choose any of the numbers below to access the meeting. Once you dial the number you will be asked to "Enter your Meeting ID followed by pound (#)". Then, you will be asked to "press pound (#) if you are a participant". Finally, you will be asked to "Enter your Participant ID followed by pound (#) or just press pound (#) to continue". If you **do not** enter anything, you will be automatically connected to the meeting.



Be sure you are identified properly:

Once in Zoom, be sure that you are identified properly. If you need to change, in "Participants" click on your ID and hover your mouse on "More >" and then click on "Rename". In the dialog box, enter your name and click "OK".

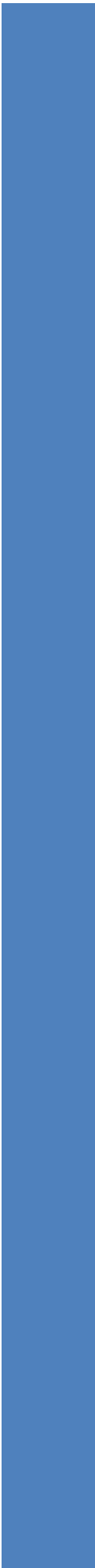


Contact Deb Bastian for any questions
- Email: dbastian@upperyampawater.com
- Phone: 970-819-0189

PUBLIC INPUT AND COMMENT

The Board will make no decision nor take action, except to direct the General Manager. Those addressing the Board are requested to identify themselves by name, organization, if any, and address. Comments shall not exceed three (3) minutes.

LAKE CATAMOUNT REFILL



BOARD COMMUNICATION FORM

From: Scott Grosscup, legal counsel

Date: June 2, 2021

Item: Water Court Cases Update

DIRECTION
 INFORMATION
 MOTION
 RESOLUTION

Following is an update of the status of water court cases in which the Upper Yampa Water Conservancy District is an Applicant or Opposer and matters pending before the Utah Division of Water Resources.

Case No. 19CW3005 – The application for finding of reasonable diligence filed by Tri-State Generation and Transmission Association related to conditional water rights it owns in the Four Counties Ditch No. 3, Headgate 8 and in the Wessels Canal was withdrawn and the conditional water rights were cancelled by order dated March 22, 2021, concluding this matter.

Case No. 20CW3015 – This is an application for finding of reasonable diligence and to make absolute the Lake Catamount Refill right in the amount of 4,000 acre feet. We have been provided a proposed Ruling of Referee and have responded with proposed terms and conditions limiting the refill right to only be used within the Catamount area boundaries and whereby it would not call out the District’s Stagecoach or Yamcolo rights. The Division Engineer has accepted the Applicant’s position that the change in statute allowing stored water to be made absolute for all uses applies in this case. There are no records from the original proceeding in 1990 to support the claim. However, current accounting suggest that the refill right was exercised in the amount of 811 acre feet in 2020. Catamount has agreed to incorporate a term in the decree requiring a minimum 50 cfs release when exercising its refill right and to limit use of the water within the Catamount District boundaries.

****Staff requests a discussion of this case in Executive Session. ****

Case No. 20CW3019 – This is the diligence application filed by Public Service Company of Colorado for 52.5 cfs decreed to the Wessels Canal. The Applicant has circulated a proposed Ruling of Referee granting diligence. The District has until June 25, 2021 to provide comments on the proposed Ruling.

Case No. 20CW3020. This diligence application filed by Public Service Company of Colorado is for Hinman Park Reservoir and the Saddle Mountain Pump Station. The District has entered

into a stipulation that incorporates prior terms between the Applicant and District. The Applicant is negotiation with the remaining opposers.

Yamcolo Reservoir Objection to Abandonment – We filed the Statement of Objection to the listing of the Yamcolo Reservoir First and Second Enlargement water rights on the Decennial Abandonment List. Next step is for the Division Engineer’s Office to respond to the Statement of Objection.

Water Horse Resources – The Utah State Engineer was served with Water Horse Resources complaint on May 25. The State Engineer has until June 15 to answer.

<p>DISTRICT COURT, WATER DIVISION NO. 6 STATE OF COLORADO ROUTT COUNTY JUSTICE CENTER 1955 SHIELD DRIVE, UNIT 200 STEAMBOAT SPRINGS, CO 80487</p>	
<p>CONCERNING THE APPLICATION FOR WATER RIGHTS OF CATAMOUNT DEVELOPMENT LLC, AND CATAMOUNT METROPOLITAN DISTRICT</p>	
<p>IN ROUTT COUNTY, COLORADO</p>	<p>Δ COURT USE ONLY Δ</p>
<p>ATTORNEYS FOR APPLICANT CATAMOUNT DEVELOPMENT LLC: DAVID S. HAYES, No. 28661 HAYES POZNANOVIC KORVER LLC 1999 BROADWAY, SUITE 3200 DENVER, CO 80202 TELEPHONE: (303) 825-1980 FACSIMILE: (303) 825-1983 E-MAIL: DHAYES@HPKWATERLAW.COM</p> <p>ATTORNEYS FOR CATAMOUNT METROPOLITAN DISTRICT: MARK E. HAMILTON, No. 24585 HOLLAND & HART, LLP 555 17TH ST. SUITE 3200 DENVER, CO 80202-3979 TELEPHONE: (303) 295-8282 FACSIMILE: (303) 672-6510 E-MAIL: MEHAMILTON@HOLLANDHART.COM</p> <p>ATTORNEYS FOR UPPER YAMPA WATER CONSERVANCY DISTRICT: SCOTT GROSSCUP, No. 35871 BALCOMB & GREEN, P.C. P.O. DRAWER 790 GLENWOOD SPRINGS, CO 81602 TELEPHONE: (970) 945-6546 FACSIMILE: (970) 945-8902 E-MAIL: SGROSSCUP@BALCOMBGREEN.COM</p>	<p>CASE No.: 20CW3015 (13CW3001, 90CW152)</p>
<p align="center">STIPULATION BETWEEN APPLICANTS AND UPPER YAMPA WATER CONSERVANCY DISTRICT</p>	

Applicants, Catamount Development LLC, and Catamount Metropolitan District (together, “Applicants”), and Objector, Upper Yampa Water Conservancy District (“Upper Yampa”), by and through their undersigned attorneys, hereby stipulate and agree as follows:

1. The above-captioned Application was filed on May 28, 2020. Upper Yampa filed a timely Statement of Opposition.
2. Upper Yampa shall not oppose entry of a decree in this case which contains terms and conditions no less restrictive than those contained in the proposed ruling (“Ruling”) attached hereto as **Exhibit A**, dated April 8, 2021. Upper Yampa reserves the right to object to less restrictive terms of any proposed rulings that present potential injuries to Upper Yampa’s interests.
3. Applicants agree that, absent a change of water right or substitute supply plan approval, the Lake Catamount Refill shall only be used within the boundaries of the Catamount Metropolitan District, as they exist now or in the future, and shall not be released or contracted for release for beneficial uses outside of the Catamount Metropolitan District boundaries.
4. Upper Yampa shall be given the opportunity to review any changes to the Ruling attached hereto as **Exhibit A** in order to verify that the terms and conditions in any such changed draft remain consistent with this Stipulation.
5. Upper Yampa consents to Applicants’ motion to the Water Court for an order approving this Stipulation between these parties.
6. Upper Yampa and Applicants agree that this Stipulation shall bind and benefit each of them and will be binding upon and benefit their respective assigns and successors in interest.
7. Upper Yampa and Applicants further stipulate that each will bear its own costs and fees associated with its appearance in this matter.
8. The parties hereto represent and affirm that the signatories to this Stipulation are legally authorized to bind the parties.
9. This Stipulation shall be enforceable by the parties as either an agreement or as an order of the Water Court.

Dated this ___ day of April, 2021.

HAYES POZNANOVIC KORVER, LLC

BALCOMB & GREEN, P.C.

David S. Hayes, No. 28661
ATTORNEYS FOR CATAMOUNT
DEVELOPMENT LLC

Scott Grosscup, No. 35871
ATTORNEYS FOR UPPER YAMPA WATER
CONSERVANCY DISTRICT

HOLLAND & HART LLP

Mark E. Hamilton, No. 24585
ATTORNEYS FOR CATAMOUNT
METROPOLITAN DISTRICT

Pursuant to Rule 121 the signed original is on file in the office of Hayes Poznanovic Korver LLC

3. Statements of Opposition. Statements of opposition were filed by Steamboat Ski & Resort Corporation and Upper Yampa Water Conservancy District. The time for filing additional statements of opposition has expired.
4. Jurisdiction. All persons affected by the Application, whether appearing or not, are parties hereto and are bound by this Ruling and Decree, all notices required by law having been given and the Court having jurisdiction over the subject matter of this proceeding. See C.R.S. §§ 37-92-203, 37-92-302.
5. Name of structure. Lake Catamount Refill.
6. Description of conditional water rights.
 - a. Prior decrees. Date of original decree: July 2, 1992, in Case No. 90CW152, District Court, Water Division No. 6. Prior diligence decrees were entered for the Lake Catamount Refill in Case No. 98CW26, Water Division No. 6, on January 19, 1999; Case No. 05CW3, Water Division No. 6, on January 22, 2007; and Case No. 13CW3001, Water Division No. 6, on May 11, 2014.
 - b. Legal description. The decree entered in Case No. 90CW152 identifies the point of the left abutment of the dam, located in Section 33, T. 5 N., R. 84 W., 6th P.M., Routt County, Colorado, at a point whence the SW corner of said Section bears South 38° 42' West, 11076.6 feet. The location may also be described as having the center of the dam located on the Yampa River, in the SE¼ of the NW¼ of Section 27, Township 5 North, Range 84 West of the 6th P.M, approximately 1,688 feet from the North section line and 1,850 feet from the West section line. The map attached as Exhibit A hereto depicts the location of Lake Catamount.
 - c. Source. Yampa River.
 - d. Appropriation date. September 1, 1986.
 - e. Amount. 4,000 acre-feet.
 - f. Use. The Lake Catamount Refill is conditionally decreed for municipal and irrigation purposes. In Case No. 99CW72, the Court approved use of 69.06 acre-feet for augmentation purposes. In Case No. 90CW152, the Lake Catamount Refill water right was adjudicated absolute for recreational and piscatorial uses.

g. ~~Terms and Conditions~~Other.

As set forth in Paragraph 15 of the decree entered in Case No. 90CW152: A minimum release of 50 cfs from the reservoir shall be maintained when the Lake Catamount Refill water storage right is being exercised. If the inflow to the reservoir is

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less than, or equal to 50 cfs, the Applicants shall not be allowed to exercise the refill right.

~~The Lake Catamount Refill shall only be used within the boundaries of the Catamount Metropolitan District boundaries and shall not be released or contracted for release for uses outside of the Catamount Metropolitan District boundaries.~~

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7. Finding of reasonable diligence. During the diligence period (May 2014 to present), Applicants demonstrated the steady application of effort to complete the appropriation in a reasonably expedient and efficient manner under all the facts and circumstances, see § 37-92-301(4)(b), C.R.S., as set forth in detail in the verified Application.
8. Water right stored and made absolute for all purposes. The decree previously entered in Case No. 90CW152 determined that water was stored and beneficially used, in the amount of 4,000 acre-feet, for Lake Catamount Refill. Pursuant to § 37-92-301(4)(e), C.R.S., “a decreed conditional water storage right shall be made absolute for all decreed purposes to the extent of the volume of the appropriation that has been captured, possessed, and controlled at the decreed storage structure.” Therefore, the Lake Catamount Refill water right is hereby found to be absolute for recreation and piscatorial uses, together with all of the other decreed uses as a matter of law by application of § 37-92-301(4)(e), C.R.S.

II. CONCLUSIONS OF LAW

9. The foregoing Findings of Fact are incorporated in these Conclusions of Law as though fully set forth herein.
10. The Application, as amended, is one contemplated by law. See §§ 37-82-101, 37-87-101, 37-92-302, C.R.S.
11. The Water Court has jurisdiction over the subject matter of this proceeding. See § 37-92-203, C.R.S.
12. Applicants have complied with all requirements and met all standards and burdens of proof, including but not limited to C.R.S. §§ 37-92-301 through 37-92-305, and specifically § 37-92-301(4)(e), and are therefore entitled to a decree confirming the remaining conditional uses of the Lake Catamount Refill water right as perfected.

III. RULING OF WATER REFEREE AND JUDGMENT AND DECREE

It is hereby the Ruling of the Referee that the foregoing Findings of Fact and Conclusions of Law are incorporated into this Ruling and Decree by this reference, and that the Application is hereby granted.

13. Applicants have shown reasonable diligence in the development of the conditional water rights originally decreed in Case No. 90CW152 for the Lake Catamount Refill.
14. Water has been stored and beneficially used in the full volume (4,000 acre-feet) pursuant to the Lake Catamount Refill water right, and, accordingly, the Lake Catamount Refill water right originally decreed in Case No. 90CW152 is hereby made fully absolute for all decreed purposes.

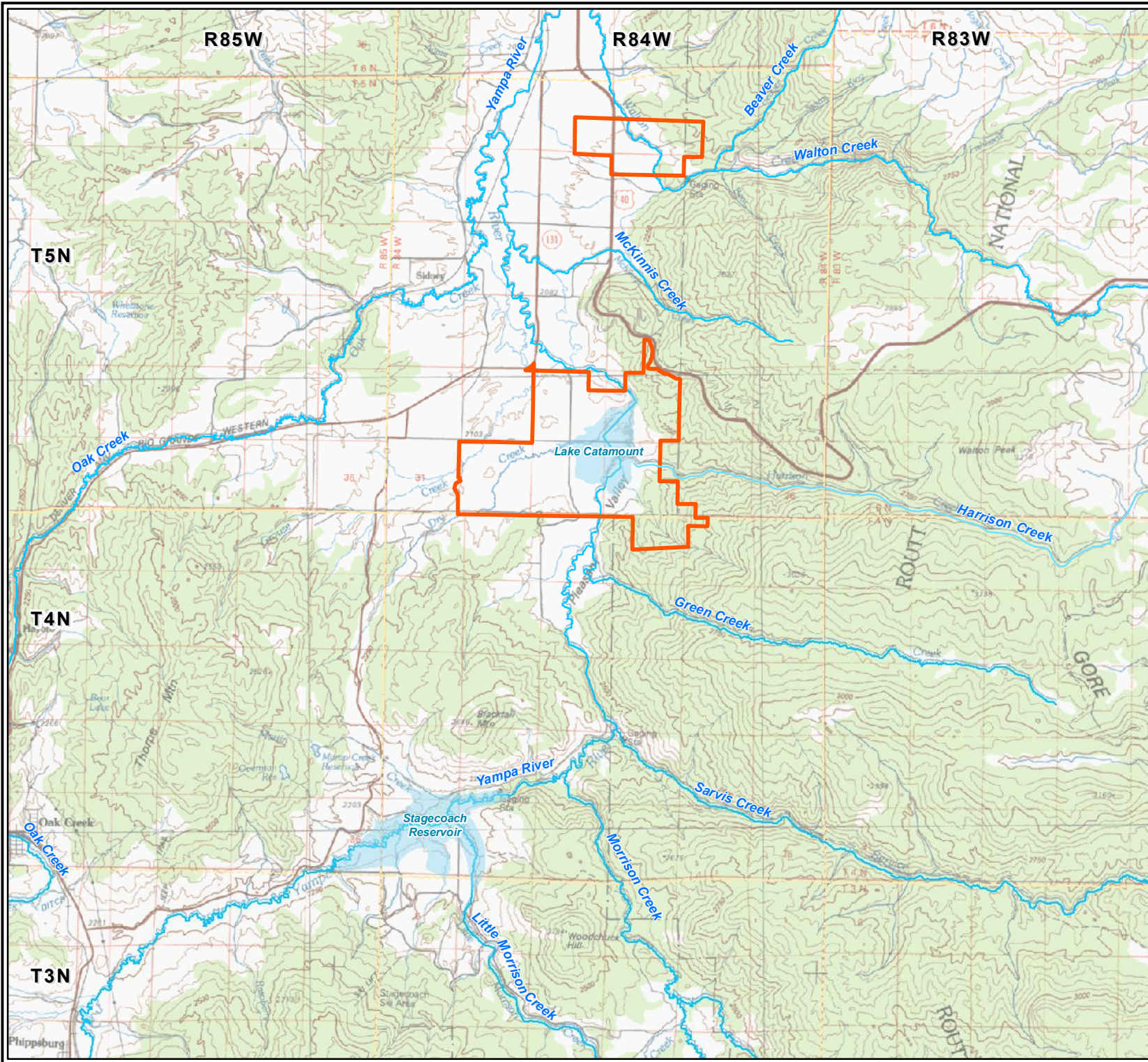
Dated: _____

Daniel R. Birch
Water Referee
Water Division No. 6
State of Colorado

THE COURT FINDS: NO PROTEST WAS FILED IN THIS MATTER, THE FOREGOING RULING IS CONFIRMED AND APPROVED, AND IS HEREBY MADE THE JUDGMENT AND DECREE OF THIS COURT.

Dated: _____




Hon. Michael A. O'Hara III
Water Judge
Water Division No. 6
State of Colorado



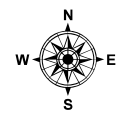
Catamount Ranch and Lake Catamount General Location Map



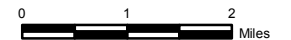
Legend

-  Streams
-  Lake/Reservoir
-  Property Boundary (Approx)

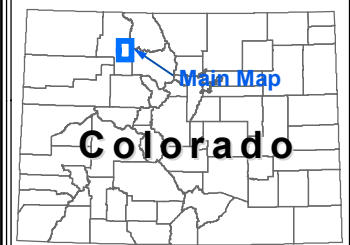
Date: Sep. 23, 2010
Job No. 4015.28



1 inch = 9,697 feet



Overview Map



SICKLES PARCEL





BOARD COMMUNICATION FORM

From: Andy Rossi, General Manager

Date: 06/02/2021

Item: Sickles West Property

<input checked="" type="checkbox"/>	DIRECTION
<input checked="" type="checkbox"/>	INFORMATION
<input type="checkbox"/>	MOTION
<input type="checkbox"/>	RESOLUTION

I. Request/Issue and Background Information:

The Sickles place is part of the assemblage of properties for Stagecoach Reservoir located north of County Road 18 and the Stagecoach Reservoir. The Sickles place is subject to a deed of conservation easement in gross ("CPW Easement) encumbering approximately 220 acres given by the Upper Yampa Water Conservancy District (UYWCD) to the State of Colorado for the benefit of the Colorado Division of Parks and Wildlife and the Colorado Wildlife Commission by instrument dated April 22, 1991, recorded at Reception No. 401084 of the Routt County records. The Sickles West property, owned by Trout 123, is approximately 40 acres in size and located immediately to the west of the Sickles Place property.

II. Summary and Alternatives:

Trout 123 is offering the Sickles West property to the UYWCD for purchase. The UYWCD staff and legal counsel have performed preliminary research into the details of the Sickles West Property and associated attributes. A verbal summary of these findings will be presented the UYWCD Board of Directors (BOD) Executive Committee. Several reference documents are included as attachments with this communication for reference and discussion purposes.

III. Staff Recommendation:

Discuss the relative merits of UYWCD ownership of the Sickles West property, including Sickles Spring #1, as additional public lands contiguous to Stagecoach State Park and direct staff to engage with Trout 123 for the formal purchase of the Sickles West property. A formal land purchase agreement requires approval by the full UYWCD BOD.



IV. Legal Issues:

Land purchase agreements are to be considered and authorized by UYWCD BOD.

V. Consistency with Board Goals and Policies:

UYWCD SP Objective 2.5

Attachments:

Sickles Property Area Reference Documents



TROUT 123

BLM

S 1/2 SE 1/4
SECTION 20

BLM

HAGENBUCH

UYWCD PROPERTY
(ALLOWABLE GRAZING LEASE AREA)

N 1/2 NE 1/4
SECTION 29

NW 1/4 NW 1/4
SECTION 28

BLM

BLM

SICKLES WEST
(TROUT 123)

N 1/2 SE 1/4 NE 1/4
SECTION 29

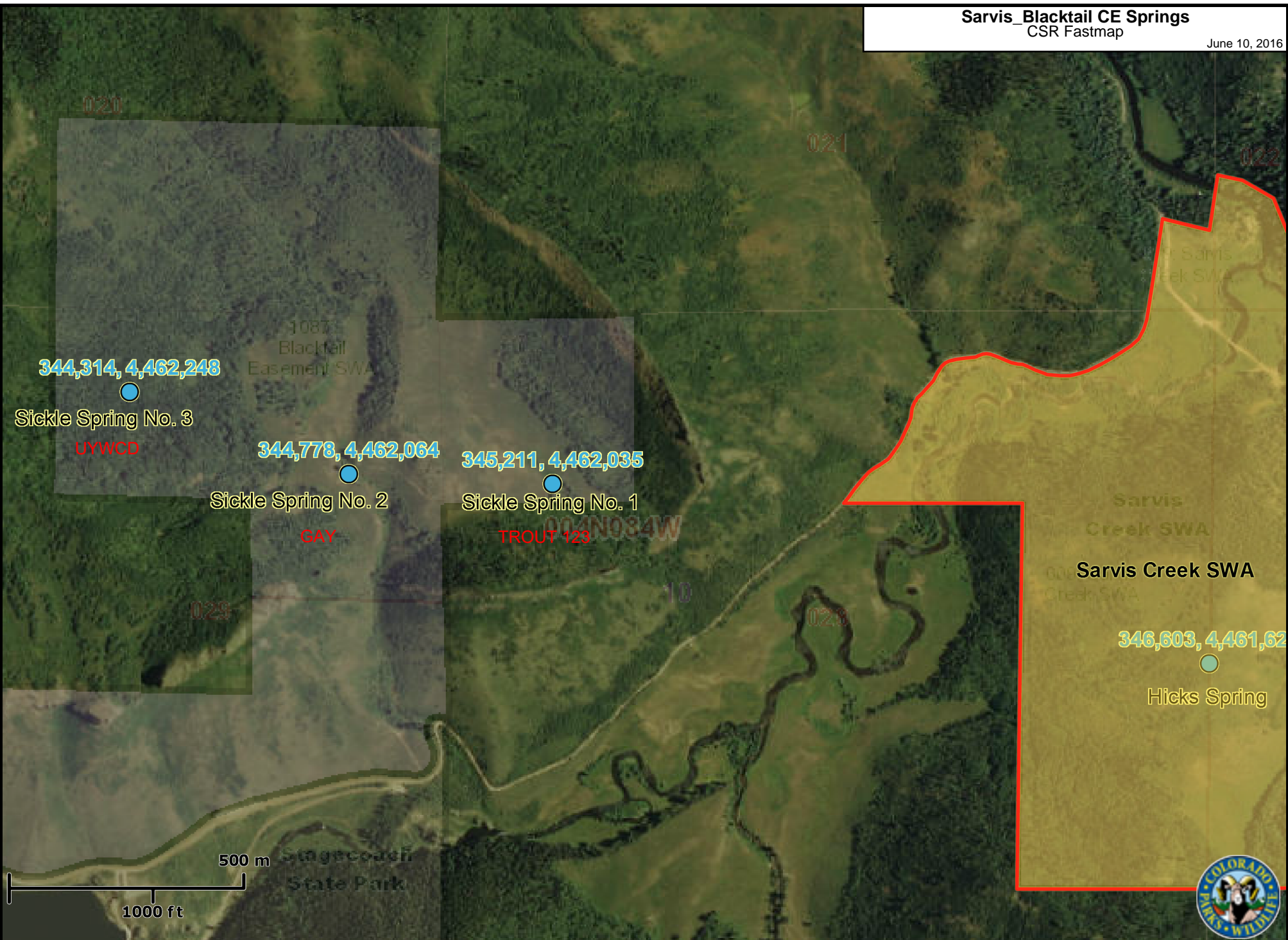
SICKLES EAST
(HAGENBUCH)

18

UYWCD PROPERTY
(STGECOACH STATE PARK)

HAGENBUCH

Morrison Creek



This map was generated by a Colorado Parks and Wildlife FastMap application. Information depicted is for reference purposes only and is compiled from the best available sources. Reasonable efforts have been made to ensure accuracy. Colorado Parks and Wildlife is not responsible for damages that may arise from the use of this map. Mapped property boundaries may or may not reflect actual legal holdings. For more detailed or missing information about this map, please contact Chris Johnson in the Colorado Parks and Wildlife GIS group at (970)472-4330.

THE DISTRICT COURT IN AND FOR

WATER DIVISION NO. 6

STATE OF COLORADO

CASE NO. 88CW42

FILED WATER DIV 6
STATE OF COLORADO

NOV 29 1988

IN THE MATTER OF THE APPLICATION FOR
WATER RIGHTS OF ROBERT & ELAINE GAY
IN THE YAMPA RIVER OR ITS TRIBUTARIES.
TRIBUTARY INVOLVED _____
IN ROUTT COUNTY.


RULING OF REFEREE
(ABSOLUTE)

1. Applicant: Robert & Elaine Gay
Address: 32885 CR 18-C
Steamboat Springs, CO 80487
2. Name of ditch or other structure: Sickles Spring 1 and 2
3. Point of diversion and/or place of storage: Spring No. 1 is located in NWNW Sec. 28, T 4 N., R 84 W., 6th P.M. at a point 1300 feet South of the North line and 700 feet East of the West line.
Spring No. 2 is located in NENE, Sec. 29; T 4 N., R 84 W., 6th P.M. at a point 700 feet West of the East line and 1200 feet South of the North Line.
4. Means of diversion: No. 1-Undeveloped spring for stockwater
No. 2-pipeline & stocktank used for stockwatering
5. Type of use: Stockwatering
6. Amount of Water: .033cfs each
7. Priority of water right: 6-1-1948
8. Date of filing application: 5-12-88

The priority here awarded shall be junior to all water rights or Conditional water rights awarded on applications filed in previous calendar years and shall also be junior to all priorities awarded in decrees entered prior to June 7, 1969, or decrees entered in proceedings which were pending on such date. As between all applications for water rights filed in the same calendar year, priorities shall be determined by historical dates of appropriation and shall not be affected by the date of entry of this judgment.

It is the ruling of the Referee that the statements in the application are true and that the above described water right is approved and granted the indicated priority.

Dated this 28th day of November, 1988.


G. I. Buffham
Water Referee - Division No. 6

**NO PROTEST WAS FILED IN THIS MATTER.
THE FOREGOING RULING IS CONFIRMED
AND APPROVED, AND IS MADE THE
JUDGMENT AND DECREE OF THIS COURT.**

FILED WATER DIV 6
STATE OF COLORADO

JAN 12 1989

DATED: 1-12-89
TRKampis
WATER JUDGE

BARGAIN AND SALE DEED
WATER RIGHTS

THIS BARGAIN AND SALE DEED is made as of December 30, 2016, between **TROUT 123, LLC**, a Colorado limited liability company, whose legal address is 1125 South 103rd Street, Suite 800, Omaha, NE 68124 ("Grantor"), and **WILLIAM W. GAY** ("Grantee"), whose legal address is 32885 RCR 18-C, Steamboat Springs, CO 80487.

GRANTOR, for and in consideration of the sum of Ten Dollars and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by Grantor, has sold and conveyed, and by these presents does hereby sell and convey unto Grantee, his heirs, successors and assigns forever, the following water, water right, spring and spring right, together with all structures used for or associated with the diversion, conveyance, measurement, storage, or use of the water and right, whether or not adjudicated, and all easements, rights of way, licenses, permits, contract rights and governmental approvals therefor or pertaining thereto:

Sickles Spring No. 2. Any and all interest in and to Sickles Spring No. 2, including the entirety of the Sickles Spring No. 2 water right decreed for 0.033 cfs on January 12, 1989, in Case No. 88CW42, in the District Court in and for Water Division 6, State of Colorado, said water right having a decreed date of appropriation of June 1, 1948.

TOGETHER with any and all hereditaments and appurtenances thereto belonging, or in anywise appertaining to the water and water right, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and all the estate right, title, interest, claim and demand whatsoever of the Grantor, either in law or equity of, in and to the above bargained water, water right and right to water.

SUBJECT to the condition that (i) Grantor shall retain a reversionary interest in the above-described Sickles Spring No. 2 and (ii) upon the death of Grantee, if not sooner reconveyed by Grantee to Grantor, the above-described Sickles Spring No. 2 shall revert to Grantor upon the recordation of the death certificate of Grantee. In the event that Grantee conveys the above-described Sickles Spring No. 2 to any third party prior to Grantee's death, or by instrument upon Grantee's death, then any such third party shall be subject to the reversionary interest of Grantor as set forth herein.

THIS DEED is dated as of the day and year first above written.

GRANTOR:

TROUT 123, LLC, a Colorado limited liability company



By: Bruce E. Grewcock
Its: Manager

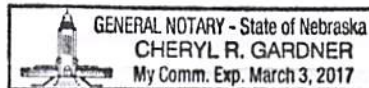
STATE OF Nebraska)
COUNTY OF Douglas) ss.
)

The foregoing Bargain and Sale Deed Water Rights was subscribed, sworn to and acknowledged before me by Bruce E. Grewcock, as Manager of Trout 123, LLC, a Colorado limited liability company.

Witness my hand and official seal this 13 day of December, 2016.

Cheryl R. Gardner
Notary Public

My commission expires: March 3, 2017



ACKNOWLEDGEMENT OF REVERSIONARY RIGHT

By accepting this Bargain and Sale Deed Water Rights for the above-described Sickles Spring No. 2, the undersigned Grantee acknowledges the reversionary interest retained by Grantor and agrees that any third party (other than Grantor) receiving title from Grantee to the above-described Sickles Spring No. 2 shall take title subject to such reversionary rights.

GRANTEE:

William W. Gay
William W. Gay

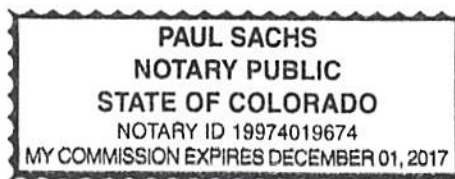
STATE OF COLORADO)
) ss.
COUNTY OF ROUTT)

The foregoing Acknowledgement of Reversionary Right set forth in this Bargain and Sale Deed Water Rights was subscribed, sworn to and acknowledged before me by William W. Gay.

Witness my hand and official seal this 30th day of December, 2016.

Paul Sachs
Notary Public

My commission expires: December 1, 2017



IN THE DISTRICT COURT IN AND FOR

WATER DIVISION NO. 6

STATE OF COLORADO

CASE NO. 88CW95

FILED WATER DIV 6
STATE OF COLORADO

MAR 22 1989

IN THE MATTER OF THE APPLICATION FOR
WATER RIGHTS OF UPPER YAMPA WATER CONS. DIST.
IN THE YAMPA RIVER OR ITS TRIBUTARIES.
TRIBUTARY INVOLVED _____
IN ROUTT COUNTY.


RULING OF REFEREE
(ABSOLUTE)

1. Applicant: Upper Yampa Water Cons. Dist.
Address: Box 0339
Steamboat Springs, CO 80488
2. Name of ditch or other structure: Sickles Spring #3
3. Point of diversion and/or place of storage: Located in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 29, T. 4 N., R. 84 W., at a point 650 feet from the north line and 2300 feet from the east line.
4. Means of diversion: Spring
5. Type of use: Stockwatering & wildlife
6. Amount of Water: 0.033 cfs
7. Priority of water right: 9/15/1988
8. Date of filing application: 9/23/1988

The priority here awarded shall be junior to all water rights or Conditional water rights awarded on applications filed in previous calendar years and shall also be junior to all priorities awarded in decrees entered prior to June 7, 1969, or decrees entered in proceedings which were pending on such date. As between all applications for water rights filed in the same calendar year, priorities shall be determined by historical dates of appropriation and shall not be affected by the date of entry of this judgment.

It is the ruling of the Referee that the statements in the application are true and that the above described water right is approved and granted the indicated priority.

Dated this 16th day of March, 1989.


G. I. Buffham II
Water Referee - Division No. 6

NO PROTEST WAS FILED IN THIS MATTER.
THE FOREGOING RULING IS CONFIRMED
AND APPROVED, AND IS MADE THE
JUDGMENT AND DECREE OF THIS COURT.

FILED WATER DIV 6
STATE OF COLORADO

DATED: May 10, 1989
Paula
WATER JUDGE

MAY 10 1989

1-27-2021

MEMORANDUM

**TO: Andy Rossi, General Manager
Upper Yampa Water Conservancy District**

FROM: Bob Weiss, Legal Counsel

DATE: January 27, 2021

Re: Access to Sickles West Property

You have asked about the right of access across the Sickles property at Stagecoach owned by Upper Yampa to the adjacent parcel of property known as the Sickles West Property owned by Trout123, LLC ("Trout"). The reason for your inquiry is that Trout123 is in the process of getting the property appraised in the context of a potential acquisition of the property by the District.

- A. Description of Properties. The Sickles place is part of the assemblage of properties for Stagecoach Reservoir located north of County Road 18 and the reservoir. The Sickles place is subject to a deed of conservation easement in gross ("CPW Easement) encumbering approximately 220 acres given by Upper Yampa to the State of Colorado for the benefit of the Colorado Division of Parks and Wildlife and the Colorado Wildlife Commission by instrument dated April 22, 1991 recorded at Reception No. 401084 of the Routt County records. The Sickles West property owned by Trout is approximately 40 acres in size and located immediately to the west of the Sickles Place property. Access to the Sickles West property is by means of a two-track ranch road which traverses the Sickles Place property. There may also be access to Sickles West from the west. The Sickles West property has no direct access to County Road 18 or any other public right-of-way. The Sickles West property was encumbered by a conservation easement to the Yampa Valley Land Trust recorded at Reception No. 557607 of the Routt County Records in 2002.
- B. CPW Conservation Easement. The rights reserved by grantor in the CPW easement are limited grazing of domestic livestock. Operation of motorized vehicles on the property is prohibited except by the District and CPW or persons acting with their authorization. Upper Yampa and CPW have historically allowed limited access across the Sickles property by the owner of the Sickles West property for grazing operations only. The CPW easement also prohibits filling and excavation, destruction of trees or native vegetation, and construction of any new roads or trails. The CPW easement provides in paragraph 22 that the owner of Section 29, SW1/4NE1/4 T4N, R84W (the Sickles West property) shall have reasonable access by "foot or horseback to said property" along the existing two-track trail that begins near County Road 18 and parallels a creek which flows from Blacktail Mountain. You tell me this is the ranch road referenced above.
- C. Conclusion. It seems clear that access is allowed across the Sickles place on horseback and for pedestrians to Sickles West. Vehicular access is harder question to answer and

1-27-2021

likely dependent on the history of use for that purpose and the manner in which the Sickles properties was divided into separate ownership. Answer to these questions would necessitate a much more complicated research project, which could include such things as interviews with persons familiar with the access to and the historic use of both properties, examination of aerial photography, and title research. Even if there is a right to vehicular access it would most likely be very limited and allow only historical access for grazing purposes as it existed, if at all, prior to the creation of the conservation easement in 1991.

EXECUTIVE SESSIONS

Executive session under CRS § 24-6-402(4)(b) to discuss legal issues on Water Resumes, Water Cases, Contract Negotiations and _____. Mere presence or participation of an attorney at an executive session is not sufficient to satisfy the requirements of CRS § 24-6-402(4)(b). Executive sessions to discuss legal matters are not recorded.

Executive session under CRS § 24-6-402(4)(e)(I) for the purpose of determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators with respect to _____. This session will be recorded, and a copy of the recording maintained for not less than 90 days.

COMMITTEE ACTIONS IN REGARD TO EXECUTIVE SESSION

